

**SUMMARIZED MINUTES
SCOTTSDALE CITY COUNCIL
MONDAY, DECEMBER 12, 2005**



**CITY HALL KIVA
3939 N. DRINKWATER BOULEVARD
SCOTTSDALE, AZ 85251**

CALL TO ORDER

Mayor Manross called to order a Regular Meeting of the Scottsdale City Council on Monday, December 12, 2005 in the City Hall Kiva at 5:18 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor Ron McCullagh
Council Members Betty Drake, Wayne Ecton, W.J. "Jim" Lane,
Robert Littlefield, and Kevin Osterman

Also Present: City Manager Jan Dolan
City Attorney Deborah Robberson
City Clerk Carolyn Jagger

PLEDGE OF ALLEGIANCE - None

INVOCATION - None

PRESENTATIONS/INFORMATION UPDATES

- Arizona State Parks Presentation – Doris Pulsifer, Arizona State Parks, presented the City with a check for \$176,879 from the Heritage Fund Grants Program for use on the Lost Dog Wash Access Area.

PUBLIC COMMENT

Jack Fuher, 7941 E Vista Dr, 85250, presented a petition (attached) requesting a change to the Scottsdale Revised Code regarding setback provisions in his southern Scottsdale neighborhood. Mr. Fuher said this change would allow homes to be remodeled.

Mayor Manross stated that the Planning Commission is working on this issue and the City Council is expecting to address it by May 2006.

James Geldien, 7837 E Vista Dr, 85250, also asked the Council to consider an ordinance change to allow more flexibility in renovating homes in his neighborhood.

MINUTES

SPECIAL MEETINGS

October 20, 2005
October 25, 2005
November 7, 2005
November 8, 2005
November 15, 2005
November 30, 2005

REGULAR MEETINGS

November 1, 2005
November 15, 2005

COUNCILMAN ECTON MOVED FOR APPROVAL OF THE SPECIAL AND REGULAR MEETING MINUTES LISTED ABOVE, WITH A CORRECTION TO THE NOVEMBER 1, 2005 MINUTES AS PROVIDED BY THE CLERK'S OFFICE. COUNCILMAN LANE SECONDED THE MOTION, WHICH CARRIED 7-0.

Mayor Manross requested that, in the interest of time, Item 26 on the Regular Agenda be moved to the December 13, 2005 Regular Agenda.

COUNCILMAN LANE MOVED TO CONTINUE ITEM 26 (SEE PAGE 15) TO DECEMBER 13, 2005. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

ITEMS 3 AND 21 WERE REMOVED FROM THE CONSENT AGENDA.

THE APPLICANT FOR ITEM 3 REQUESTED A CONTINUANCE TO JANUARY 24, 2006.

CONSENT AGENDA ITEMS 1-23

1. **Trader Joe's Agent Change (Beer and Wine Store) Liquor License**

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for an agent change for an existing series 10 (beer and wine store) liquor license.

Location: 7555 E. Frank Lloyd Wright Boulevard

Reference: 55-LL-2000#2

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

2. **Café Citron (Restaurant) Liquor License**

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license at a new.

Location: 10428 E. Jomax Road, Ste. 101

Reference: 56-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

3. Maloney's Tavern (Bar) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 6 (bar) liquor license.

Location: 8608 E. Shea Boulevard

Reference: 60-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

COUNCILMAN ECTON MOVED TO CONTINUE ITEM 3, 60-LL-2005, TO JANUARY 24, 2006.
COUNCILMEMBER DRAKE SECONDED THE MOTION, WHICH CARRIED 7-0.

4. Sol Y Sombra (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license at a new location.

Location: 20707 N. Pima Road, Building L, Ste. 200

Reference: 61-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

5. Arizona Vines Wine Distributors (Wholesaler) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 4 (Wholesaler) liquor license at a new location.

Location: 10456 N. 74th Street

Reference: 64-LL-2005

Staff Contacts: Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

6. Caliente Sports Grill (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license at an existing location.

Location: 7103 E. McDowell Road

Reference: 66-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

7. Troon Country Club Agent Change (Bar) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for an agent change for an existing series 6 (bar) liquor license.

Location: 25000 N. Windy Walk Drive

Reference: 68-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

8. Yard House Restaurant (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license at an existing location.

Location: 7014 E. Camelback Road

Reference: 70-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

9. Trader Joe's Agent Change (Beer and Wine Store) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for an agent change of a series 10 (beer and wine store) State liquor license at an existing location.

Location: 6202 N. Scottsdale Road

Reference: 71-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

10. Famous Sam's (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for an existing location.

Location: 7134 E. Thomas Road

Reference: 72-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

11. Eddie V's Wildfish Seafood Grill (Restaurant) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a series 12 (restaurant) liquor license for a new location.

Location: 7135 E. Camelback Road, Ste. 130

Reference: 73-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

12. Sandbar Mexican Grill (Bar) Liquor License

Request: Consider forwarding a favorable recommendation to the Arizona Department of Liquor Licenses and Control for a person and location transfer of a series 6 (bar) liquor license.

Location: 10050 N. Scottsdale Road

Reference: 50-LL-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Connie Padian, Customer Service Chief Officer, 480-312-2664, cpadian@scottsdaleaz.gov

13. Sandbar Mexican Grill Conditional Use Permit

Requests:

1. Approve a conditional use permit for a bar in an existing building located at 10050 N. Scottsdale Road with Central Business District (C-2) zoning.
2. Adopt Resolution No. 6791 affirming the conditional use permit.

Location: 10050 N. Scottsdale Road, Ste. 127

Reference: 20-UP-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

14. First Baptist Church Of Scottsdale Rezoning

Requests:

1. Rezone from Single Family Residential District (R1-7) to Multiple Family Residential (R-5) on a 4.23 +/- acre parcel located at 7025 E Osborn Road.
2. Adopt Ordinance No. 3650 affirming the rezoning.

Location: 7025 E. Osborn Road

Reference: 12-ZN-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

15. Horseman Park Estates Final Plat

Request: Approve the Final Plat for eight single-family lots on a 2.9 +/- acre parcel.

Location: East of the Northeast corner of 98th Street and McDowell Mountain Ranch Road

Reference: 22-PP-2004

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

16. Gourmet Corner Conditional Use Permit

Requests:

1. Approve a conditional use permit for a delicatessen/restaurant located in a 1,492 +/- square-foot suite of an existing building located at 9096 E. Bahia Drive, #109 with Industrial Park, Planned Community District (I-1 PCD) zoning.
2. Adopt Resolution No. 6790 affirming the conditional use permit.

Location: 9096 E Bahia Dr , #109

Reference: 18-UP-2005

Staff Contact(s): Frank Gray, Planning and Development Services General Manager, 480-312-2890, fgray@scottsdaleaz.gov; Randy Grant, Chief Planning Officer, 480-312-7995, rgrant@scottsdaleaz.gov

17. Hotel Valley Ho Historic Preservation Incentive and Easement Agreement Amendment

Request: Consider adopting Resolution No. 6795 approving an amendment to City of Scottsdale Agreement No. 2003-175-COS-A2 with MSR Properties, LLC 1) to reduce the maximum amount of historic preservation payments and to shorten the length of time payments are made in return for waiver of certain permit fees, and 2) to clarify the base for certain City payments to the owner.

Related Policies, References:

- This action directly supports City Council Broad Goal B: Preserve the Character and Environment of Scottsdale, and Goal D: Support Long Term Economic Sustainability.
- This request supports City Council's charge to the Historic Preservation Commission to establish and maintain the Scottsdale Historic Register as part of a comprehensive Historic Preservation Program, and is consistent with the intent of the Historic Preservation Ordinance approved by City Council in July 1999.
- The owner's plans to rehabilitate and preserve the historic hotel are consistent with the purposes of the HP rezoning of the property and the designation of the property on the Scottsdale Historic Register that were approved by the City Council in July 2002.
- The request is consistent with the Hotel Valley Ho Historic Preservation Plan approved by the City Council in April 2003.
- The request is consistent with the report on a comprehensive incentive package to support the historic preservation program in Scottsdale presented and submitted to the Council in March 2003.

Staff Contact(s): Robert Cafarella, AICP, Preservation Director, 480-312-2577, rcafarella@scottsdaleaz.gov

18. Authority to Assess Fees for Wireless Communication Facilities in City Right-of-Way

Request: Adopt Ordinance 3655 adding Section 106 and Section 107 to Chapter 47 of Scottsdale Revised Code relating to fees and permits for wireless communications facilities, personal wireless service facilities and other encroachments in the City's rights-of-way.

Related Policies, References: The City's planning and development fee schedule contains the existing fee schedule for cellular sites and other private improvements in the right-of-way.

S.R.C. §47-98. Issuance. Authorizes encroachment permits.

Staff Contact(s): Brad Hartig, Chief Information Officer, 480-312-7615, bhartig@scottsdaleaz.gov; Kevin Sonoda, Telecommunications Policy Information Systems, 480-312-4138, ksonoda@scottsdaleaz.gov

19. Fees for WiFi Antennas that are Installed in the City's Rights-of-Way

Request: Adopt Resolution No. 6761 that establishes a fee structure for the installation of WiFi antennas on infrastructure and land space in the City's rights-of-way.

Related Policies, References:

- The City has a schedule of fees directly related to planning and development in SRC 46-141, Fee Schedule. The fee section for Encroachment Permits and Improvements contains the fee schedule for private improvements in the ROW for cellular sites.
- Proposed Ordinance 3655, adding Section 106 and Section 107 to Chapter 47 of Scottsdale Revised Code. Section 106 – Form of Encroachment Permits, and Section 107 – Encroachment Permit Fees. (NOTE: Scheduled for City Council Action on December 12, 2005)

Staff Contact(s): Craig Clifford, General Manager Financial Services, 480-312-2364, cclifford@scottsdaleaz.gov; Brad Hartig, Chief Information Officer Information Systems, 480-312-7615, bhartig@scottsdaleaz.gov

20. Agreement for Wildfire Broadband Wireless Communications, Inc. to Install WiFi Antennas on City Infrastructure in the City's Rights-of-Way

Request: Adopt Resolution No. 6788 authorizing the Mayor to execute Contract #2005-161-COS that allows Wildfire Broadband Wireless Communications, Inc. to construct, install and operate a wireless internet and data communications network in the City's rights-of-way.

Related Policies, References: Proposed Resolution No. 6761 authorizes a new fee schedule for WiFi antennas on City infrastructure in the right-of-way. (NOTE: Scheduled for City Council Action on December 12, 2005)

Brad Hartig, Chief Information Officer, 480-312-7615, bhartig@scottsdaleaz.gov; Kevin Sonoda, Telecommunications Policy Information Systems, 480-312-4138, ksonoda@scottsdaleaz.gov

Mayor Manross opened public testimony:

Ryan McCaine, NeoReach Wireless, 1225 S 48th St, Tempe AZ 85281, opposed the direction Scottsdale was taking in the installation of wireless communications in comparison with other Valley cities. Mr. McCaine said he preferred an RFP process that would have allowed his company to apply. He requested this item be continued for further study and issuance of an RFP.

Craig Miller, NeoReach Wireless, 1225 S 48th St #3, Tempe AZ 85281, offered the services and technical expertise of his company, and requested a continuance of this item for further evaluation.

Public testimony closed.

Brad Hartig, Chief Information Officer, clarified that the contract would allow multiple vendors to participate. In response to a question from Council, Mr. Hartig stated that NeoReach Wireless had been offered a map of the vertical assets. He explained that Neoreach may apply, like anyone else, to participate in the project.

21. Photo Radar Loop 101 Demonstration Project Funding

ITEM 21 REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 8.

22. Capital Budget Transfer for Tax, Licensing and Alarm Billing System for Customer On-line Filing Improvements

Request: Approve a \$109,300 capital budget transfer from the Financial Services – IVR Tax and License Project (Project No. M0503) to the Financial Services – Tax, Licensing and Alarm Billing System Project (Project No. M0504.)

Staff Contact(s): Craig Clifford, Chief Financial Officer, 480-312-2364, cclifford@scottsdaleaz.gov

23. Arizona State Land Trust Land Acquisition

Requests:

1. Adopt Resolution No. 6804 for the acquisition of land and associated financing and closing costs for two parcels from the Arizona State Land Trust (51.81 acres at \$26.8 million and 17.65 acres at \$5.3 million), and declaring an emergency.
2. Adopt Resolution No. 6805 declaring the City's intent to advance funds not to exceed \$35 million for the financing of the State Land Trust purchase.

3. Approve a CIP Budget transfer of \$35 million for all land acquisition, administration, financing and project costs.
4. Authorize an Excise Debt Fund Reserve utilizing Economic Investment funds of \$4.7 million.

Related Policies, References: Resolution No. 6674, dated May 17, 2005, Adopted Financial (Debt) Policies.

Staff Contact(s): Craig Clifford, Chief Financial Officer, 480-312-2364,
cclifford@scottsdaleaz.gov

MOTION AND VOTE – CONSENT AGENDA

COUNCILMAN OSTERMAN MOVED FOR APPROVAL OF CONSENT AGENDA ITEMS 1, 2, 4 THROUGH 20, 22, AND 23. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 7-0.

ITEM 21 REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION:

21. Photo Radar Loop 101 Demonstration Project Funding

Request: Approve a budget transfer for \$6 million from the 2005/06 General Fund Contingency Fund to various operating department budgets for implementation of the approved photo enforcement Loop 101 demonstration program.

Staff Contact(s): Craig Clifford, Chief Financial Officer, 480-312-2364,
cclifford@scottsdaleaz.gov

Staff provided a presentation outlined as follows:

- Purpose of budget transfer request
- Calculations for estimates of paid or unpaid citations, revenue, and cost management
- Audit controls
- Contractual controls
- Ongoing evaluation and reporting

Redflex Traffic Systems, Inc. provided a presentation viewed at a public event on December 1, 2005 and outlined below:

- Redflex experience in photo enforcement
- Expectations and statistics from the Frank Lloyd Wright experience
- Thirteen years of data from Australia speed camera enforcement program
- Photo examples
- Public awareness signage
- Citation process and example

Council/Staff discussion:

- Transportation General Manager Mary O'Conner said that a Technical Advisory Committee will meet December 19, 2005 to add criteria to the basic goals of reducing speed and reducing the number of accidents on the freeway.
- Redflex refunds money paid by drivers when tickets are found to be inaccurate.
- Contract terms specify that Redflex will bear any costs associated with their mistakes. After receiving an itemized statement, Redflex will also refund the City for any staff time involved.

- If the state legislature passes a bill that nullifies the arrangement between the City and Redflex, the City may have some unrecoverable costs. These include the cost of the public awareness campaign, some staffing elements, and warning notices.
- Concern about the City's liability beyond the \$20M indemnity was expressed.
- It was pointed out that the purpose for this item is to approve a budget transfer.

Mayor Manross opened public testimony:

George Knowlton, 8701 E Valley View Rd, 85250, opposed funding the program. Mr. Knowlton feels that 85% of the citizens are against the program and that it is discriminatory to Arizona residents. He also objected on the grounds that money from paid citations will go to the State's general fund, and not to the Department of Public Safety.

Doug Newton, 8468 E Montebello, 85250, believes that the claims in a multi-car accident could easily go beyond the \$20M indemnity. He said it is unfair that out-of-state residents will not have to pay fines.

Jim Heather, 6732 E Sheridan St, 85257, believes speeding is worse on local streets and that seven motorcycle officers are insufficient for Scottsdale.

Public testimony closed. Two additional comment cards were received from citizens opposed to the item but not wishing to speak.

MOTION AND VOTE – ITEM 21

COUNCILMAN ECTON MOVED FOR APPROVAL OF ITEM 21, A BUDGET TRANSFER OF \$6M FROM THE GENERAL FUND CONTINGENCY FUNDS. COUNCILMAN OSTERMAN SECONDED THE MOTION, WHICH CARRIED 5-2, WITH COUNCILMEMBERS LANE AND LITTLEFIELD DISSENTING.

REGULAR AGENDA ITEMS 24 - 26

24. Community Event Funding For McDowell Mountain Music Festival and Scottsdale New Year's Eve Block Party

Requests:

1. Approve recommendations to authorize funds from the General Fund for the McDowell Mountain Music Festival and the Scottsdale New Year's Eve Block Party.
2. Adopt Resolution No. 6784 authorizing funding for the FY 2005/2006 Community Events support program and authorizing the Tourism Development Manager to execute individual agreements with each event producer.
3. Authorize and direct the Tourism Development Manager to execute, on behalf of the City, individual agreements with each approved event producer.

Staff Contact(s): Dave Roderique, Economic Vitality General Manager, 480-312-7601, droderique@scottsdaleaz.gov

Staff presentation:

- Background – Tourism Development Commission (TDC)
- Eligible Community Events
- Criteria for funding by the TDC
- Use of Funds

- Council Action of October 18, 2005
 - Approved \$10,000 each for Parada del Sol and Artwalks
 - Requested further information on McDowell Mountain Music Festival and New Year's Eve Block Party

Applicant presentations:

- New Year's Eve Block Party
 - In partnership with United Firefighters Association
 - \$3,000 to be donated to Coronado High School
 - Upscale focus – "Champagne and Chefs"
 - Expected attendance of more than 10,000
 - \$35 entrance fee

The applicant verified they will be receiving a reduction in their bill for Police services, but doubted the need for a \$9M liability bond.

- McDowell Mountain Music Festival
 - Non-profit organization raises money for two local charities
 - Arizona Quest for Kids
 - Phoenix Day Child and Family Learning Center
 - Economic impact primarily sales tax
 - The event will be good for the community and for culture

Mayor Manross opened public testimony:

Rich Kidder, Scottsdale Chamber of Commerce, 7343 Scottsdale Mall, 85250, supported funding for the Block Party.

Public testimony closed.

Council discussion:

- Liability bond requirements for the Block Party have a minimal financial impact.
- It was suggested that the New Year's Eve Block Party should apply to the Convention and Visitors Bureau for funding next year.
- There was consensus that criteria for bed tax distribution needs to be revisited in the next budget cycle.
- Concern was expressed about the appropriateness of funding the events from the general fund.
- Councilmembers questioned spending Scottsdale taxpayer money to fund an event that benefits a Phoenix charity.
- There was general agreement that the Music Festival does not meet the criteria for Tourism and Development Commission funding.

MOTION AND VOTE – ITEM 24

COUNCILMEMBER DRAKE MOVED TO AUTHORIZE FUNDS FOR THE NEW YEAR'S EVE BLOCK PARTY IN THE AMOUNT OF \$10,000. COUNCILMAN ECTON SECONDED THE MOTION, WHICH CARRIED 5-2, WITH VICE MAYOR MCCULLAGH AND COUNCILMAN LITTLEFIELD DISSENTING.

COUNCILMAN LITTLEFIELD MOVED TO AUTHORIZE FUNDING FOR THE MCDOWELL MOUNTAIN MUSIC FESTIVAL. COUNCILMAN OSTERMAN SECONDED THE MOTION, WHICH FAILED 2-5, WITH VICE MAYOR MCCULLAGH AND COUNCILMEMBERS DRAKE, LANE, ECTON, AND LITTLEFIELD DISSENTING.

25. Revision of Ordinance Regulating Sexually Oriented Businesses

Requests: Consider repealing the City's current ordinance regulating sexually oriented businesses and adopting a restructured, revised ordinance. This can be accomplished by:

- Adopting Resolution No. 6802 declaring the text of the new ordinance a public record, and
- Adopting Ordinance No. 3658 repealing the existing regulations (SRC §§ 16-236 through 16-259) and adopting the new regulations being made a public record in Resolution No. 6802.

Related Policies, References: City of Scottsdale Revised Code, Article 16, Sections 16-236 through 16-259.

Staff Contact(s): Deborah Robberson, City Attorney, 480-312-2405,
drobberson@scottsdaleaz.gov

Staff and Consultant provided a presentation as outlined below:

- History of Scottsdale's Sexually Oriented Businesses Ordinance
- Case law
 - Regulations must adhere to constitutional standards
 - Time, place and manner of activities may be regulated
- Dream Palace v. Maricopa County decision in September 2004 was impetus for City to fix loopholes that allow circumvention of current ordinance, and provide updated regulatory options consistent with changes in case law.
- Expert counsel hired by City for consultation (Scott Bergthold)
- Definition section of ordinance updated and improved
- Nudity banned: proposed ordinance requires employees to wear pasties (covering nipple area) and t-back g-string (covering pubic area and cleft of buttocks)
- Regulation of semi-nude conduct clarified
- Option of banning use of alcohol in establishments
- Changes for adult video facilities
- Regulating secondary effects
 - Types of secondary effects
 - Adverse impacts on nearby commercial or residential sites; aesthetic and economic impacts
 - Personal and property crimes, public safety risk
 - Public lewdness, illicit sexual activity, prostitution, and potential spread of disease
 - Illicit drug use and trafficking
 - Dealing with adult businesses as a class, evidence concerning that class is "reasonably believed to be relevant" to the problems the City intends to prevent
 - City has a substantial government interest in regulating adult businesses to prevent the identified negative secondary effects

Mayor Manross opened public testimony:

Patty Badenoch, 5027 N 71 Pl, 85250, supported the ordinance change. Ms. Badenoch said sexually oriented businesses do not fit in with downtown revitalization efforts.

Mrs. Arocha, 7212 E Latham St, 85257, lives behind a club and described scenes she has witnessed in the alley. She believes these clubs should not be in neighborhoods; and that they promote alcoholism, drugs, and pedophilia.

Tony Knowles, Phoenix, 85021, opposed the ordinance and believes anecdotal evidence is not reasonable. Mr. Knowles asked that Council guard against unfairly legislating people different than themselves.

John Miller, 7437 E Oak St, 85257, said he has philosophical and constitutional concerns. Mr. Miller said that it is not right to legislate morality or to try to shut down businesses.

Kellee Gunderson, 1030 S Dobson, #22, Mesa, 85202, grew up near a club and did not feel she was influenced in any way. She believes it is ludicrous to pass laws against what some feel is offensive and to use tax dollars to enforce those laws.

David Rajput, 7637 E Edgemont, 85257, believes the City's meetings violated open meeting laws as there was no opportunity for club owners to discuss changes with the City Attorney. Mr. Rajput said these are not sexually oriented clubs, but adult-oriented.

Jim Pierce, 31849 N 61st St, 85331, asked Council to consider the impact to the City from national media and postpone action until other solutions are identified.

Chad Willems, 19047 N 91 Wy, 85255, Summit Consulting Group, provided results of a survey indicating little support for the ordinance revisions in Scottsdale. He acknowledged this survey was commissioned by one of the cabarets.

Don Isaacson, Arizona Licensed Beverage Association, 500 E Thomas Rd, Phoenix, 85012, said the City was jeopardizing the entire effort tonight by suggesting an alcohol ban because liquor licensing is regulated by the State, not by the City.

Richard Hertzberg, 6253 N 57th Pl, Paradise Valley, 85253, representing Jenna Jameson, said Ms. Jameson wants to make the business and neighborhood better. He believes the City should give her a chance and see how things go for a few months.

Peter Schelstraete, Attorney for Skin Cabaret, 1949 E Broadway, Tempe, 85282, said they received unanimous approval from the State Liquor Board for their license, and that State liquor laws address secondary effects. Mr. Schelstraete said there are fewer calls for service to Skin Cabaret than there are for most nightclubs.

Richard Cea, 7243 E Latham, 85257, who lives behind Skin Cabaret, said he has no problems in his neighborhood. Mr. Cea considers the ordinance a waste of time.

Abel Sakiestewa, 414 N 73rd St, 85257, said that as a Native American he had spiritual concerns about the land and how evil acts will defile it.

Judith Resman, 7623 N 102 Pl, presented data on strip clubs and secondary effects including pornography, sexual abuse, and prostitution.

Dinah Lundell, 625 N MacDonald, Mesa, 85201, said she is adamantly opposed to sex clubs, and that addiction to pornography leads to crime and destroys families.

Eric Borowsky, 22214 N LaSenda, 85255, part owner of one of the cabaret buildings, expressed concern that the new ordinance would close these businesses. Mr. Borowsky complained about there being no discussion between the City and the affected businesses. He said no secondary effects have been attributed to the clubs.

Lou Vitiello, 5401 N 81st Pl, 85250, works as a religious volunteer at Arizona prisons dealing with sex offenders, and said they commit sex crimes due to addictions to pornography, alcohol, or drug use. He believes tighter restrictions are needed for this type of club.

John Westin, 12121 Wilshire Blvd, #900, Los Angeles CA 90025, an attorney representing Skin Cabaret, said this is extremism; dramatic, unnecessary, and overkill. Mr. Westin believes the ordinance will put the businesses out of business. He said that it is wrong that information was only made available to him six days before tonight, and the affected businesses could not participate in the discussions. Mr. Westin said adoption of this ordinance will guarantee long legal fights.

Lyle Wurtz, 6510 E Palm Ln, 85257, expressed concern about loss of democracy. Mr. Wurtz said laws should apply to all businesses equally.

William and Teri Chadwick, 5873 E Paradise Ln, 85254, said that they are parents of three teenagers, and strongly encourage and support the stringent updating of the SOB ordinance.

Barbara Blewster, Arizona Republican Assembly, supported the ordinance revision, and said that nothing related to lasciviousness is part of the first amendment.

George Frasher, 2122 N Scottsdale Rd, 85257, owner of a restaurant close to both cabarets, has witnessed how well the clubs are run. Mr. Frasher said his business will be negatively impacted by the new ordinance.

David Polk, 8350 E McKellips #168, 85257, said he personally lost a marriage and children because of strip clubs, and commended Council for revising this ordinance.

Peter Gentala, The Center for Arizona Policy, 11000 N Scottsdale Rd, said he has heard nothing on how these businesses will be shut down if this ordinance passes, and hoped Council does the right thing for the future of Scottsdale.

Jacqueline French, 825 N Hayden Rd, C209, 85257, supported the ordinance.

Rick Kidder, Scottsdale Chamber, 7343 Scottsdale Mall, 85250, expressed concern about the ordinance and urged the City to work with the affected businesses.

Valerie Yobbie, 7329 E Lewis Av, 85257, supported the ordinance due to being repeatedly abused as a child by men who were under the influence of secondary effects created by this type of club.

Baron Brandstrom, 13880 N Northsight Blvd #109, 85260, said Scottsdale's image is a family-friendly resort town, and it is essential to protect the investment made in marketing the City's name. It is the City's legal right to regulate these businesses.

Randy Nations, 1811 S Alma School Rd, #268, Mesa, 85210, a liquor industry consultant, opposed prohibiting alcohol as the clubs have not violated any liquor laws. Mr. Nations feels the clubs would go out of business if they could not sell alcohol.

Kevin Cooper, 4215 N Drinkwater, #149, 85251, believes that removing alcohol from the equation would not solve the problem.

James Bermant, 3408 N 62nd Pl, 85251, opposed the ordinance and does not believe it is a wise use of tax money.

Rick Crouch, 6049 E Wilshire Dr, 85257, asked Council to consider the economic impacts of the clubs closing. He has seen no secondary effects in Scottsdale.

Mike Bentler, 3314 N 68th St, #227W, 85251, believes jurisdiction to regulate these clubs lies with the State, not the City. He believes this is extremist and the wrong thing to do.

Karen Walters, 7303 E McDonald, 85250, said she is delighted that Council wants to restrict strip clubs and feels the City of Scottsdale is starting to attract that type of business.

Mayor Manross closed public testimony. Thirty additional comment cards were received from citizens not wishing to speak: 12 in favor of, and 18 opposed to the ordinance change.

Council discussion:

- The City Attorney confirmed that evidence of secondary effects resulting from this class of business, or any anecdotal evidence, allows Council to enact reasonable restrictions on this class of business, and actual instances at a particular business are not required.
- The City Attorney stated that the process used to develop this ordinance is typical. Per Council direction, staff has drafted a list of available regulatory options. Mr. Berghold provided expert counsel.
- Council clarified that the intent is not to close a business or end free expression, but to regulate the time, place, and/or manner of sexually oriented businesses.
- Testimony of inaccessibility of staff and lack of input by the businesses was refuted.
- Councilmembers opposed banning alcohol, and agreed that a four-foot barrier would be sufficient.
- It was noted that the new ordinance is necessary so the law can be enforced.

MOTION AND VOTE – ITEM 25

COUNCILMAN LITTLEFIELD MOVED TO ADOPT ORDINANCE NO. 3658 AND RESOLUTION NO. 6802 WITH TWO CHANGES TO THE ORDINANCE: DELETION OF PARAGRAPH N OF SECTION 16-275 REGARDING LIQUOR, AND CHANGING PARAGRAPH B OF SECTION 16-276 TO READ 4 FEET INSTEAD OF 6 FEET. COUNCILMAN ECTON SECONDED THE MOTION.

Discussion was held about the purpose of Section 16-263, Paragraph B4 of the Ordinance, under Grounds for Denial or Revocation. For clarification, that portion was deleted.

THE MAKER AND SECONDER OF THE MOTION AGREED TO AMEND THE MOTION TO ELIMINATE PARAGRAPH B4 OF SECTION 16-263 OF THE ORDINANCE.

THE MOTION AS AMENDED CARRIED 7-0.

26. 2006 State Legislative Program

Request: Consider approval of the City of Scottsdale 2006 State Legislative Program.

Staff Contact(s): Bridget Schwartz-Manock, Government Relations Director, 480-312-2423, bschwartzmanock@scottsdaleaz.gov

ITEM 26 WAS MOVED TO THE DECEMBER 13, 2005 AGENDA. SEE PAGE 2 FOR MOTION.

PUBLIC COMMENT - None

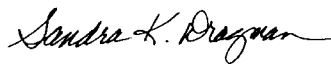
CITY MANAGER'S REPORT - None

MAYOR AND COUNCIL ITEMS - None

ADJOURNMENT

With no further business to discuss, the meeting adjourned at 10:49 P.M.

SUBMITTED BY:



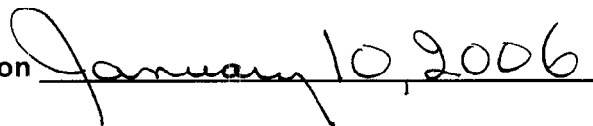
Sandy Dragman
Recording Secretary

REVIEWED BY:



Carolyn Jagger
City Clerk

Officially approved by the City Council on




CERTIFICATE

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the City Council of Scottsdale, Arizona held on the 12th day of December 2005.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 10th day of January 2006.


CAROLYN JAGGER
City Clerk

2005 DEC 12 PM 5:13

December 12, 2005

City Council of Scottsdale,

We the undersigned are in support of ordinance changes that will allow greater flexibility in standards in mature areas of Scottsdale, allowing people in these areas to upgrade and improve their homes. We understand that there is an ordinance change in the process and we are in favor of passing this ordinance.

Name	Address	Signature
Billie McMillen	7927 E. Vista Dr.	Billie McMillen
Dennis McMillen	7927 E. Vista Dr.	Dennis McMillen
Linda H. Orchard	3201 E 79th Way	Linda H. Orchard
Frude Voss	7948 E Vista	Frude Voss
Ernesta Lamm	5213 N 079th St	Ernesta Lamm
Scott Asch	5219 N 19th Way	Scott Asch
Jeanette Taylor	7890 E Vista Dr. Scottsdale, AZ	Jeanette Taylor
LARRY E. LOWE	7833 E. VISTA DR. SCOTTSDALE, AZ 85256	LARRY E. LOWE
JAMES M. TAYLOR	5327-N 7TH WAY SCOTTSDALE	JAMES M. TAYLOR
Marie Hyde	2615 N 68th Pl.	Marie Hyde
John Hyde	2615 N. 68th Pl.	John Hyde
Ken Moody	6501 E Holly St	Ken Moody
Barb McIntyre	1802 E Vista Dr.	Barb McIntyre
LARRY McIntyre	7802 E Vista Dr.	LARRY McIntyre
Rick Green	7785 E. Luke Lane	Rick Green
Lilly Bauer	5100 N Miller Rd.	Lilly Bauer
Lee Bauer	5100 N Miller Rd	Lee Bauer
Joan Chidester	7829 E. Bellevue St	Joan Chidester
Karen Chidester	7829 E. Bellevue St	Karen Chidester
Tom Hoff	807 E. Fairmount Ave	Tom Hoff
Leah Phillips	5626 N 18 Pl.	Leah Phillips
Dee Reed	7870 E. Midlock	Dee Reed
Spencer Shuback	7211 N. Via De Laesia	Spencer Shuback
Connie Shuback	7211 N. Via De Laesia	Connie Shuback
Ken Martin	5308 N. 81st Pl.	Ken Martin
Jim Seldin	7837 E. Vista Dr.	Jim Seldin
MARK FICKLIN	7837 E VISTA DR	MARK FICKLIN
Scott Albin	7915 E. Vista Dr.	Scott Albin

December 12, 2005

City Council of Scottsdale,

We the undersigned are in support of ordinance changes that will allow greater flexibility in standards in mature areas of Scottsdale, allowing people in these areas to upgrade and improve their homes. We understand that there is an ordinance change in the process and we are in favor of passing this ordinance.

Name	Address	Signature
Robert H. Ritchie	7843 PECOS LN	Robert H. Ritchie
GOLS HAMPTON	17843 PECOS	GOLS HAMPTON
City Saden	7842 E. Vista Dr.	City Saden

December 12, 2005

City Council of Scottsdale,

We understand that there is an ordinance change in the process that will allow people in the mature areas of Scottsdale to be more flexible with their upgrades and improvements to their homes. The undersigned want you to know that we are in full support of such an ordinance, and would like to go on the record as such.

Thank you,

Name	Address	Signature
JANE WHITE	7840 E CRESTWOOD WY	Jane White
LARRY WHITE	"	Larry White
SUSAN DICKMAN	7916 E VISTA DR 85250.	Susan M. Dickman
MICHAEL CLAR	7907 E VISTA DR	Michael Clar
Charlene C. Strong	7944 E Vista Dr	Charlene C. Strong
Mike Valentia	7940 E Vista	Mike Valentia
BARBARA J. LYNCH	7837 E BONNIE ROSE AVE 85250	Barbara J. Lynch